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6 UNITED STATES DISTRICT COURT  
7 WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

8 DAVID ALLEN GILLUM,

9 Plaintiff,

10 v.

11 OWENS, et al.,

12 Defendant.

CASE NO. C19-1859-RSM-BAT

**ORDER DENYING MOTION FOR  
DEFAULT JUDGMENT AS  
PREMATURE**

13 Plaintiff proceeds *pro se* and *in forma pauperis* in this civil rights action pursuant to 42  
14 U.S.C. § 1983. Plaintiff moves for a default judgment against defendants based on their failure to  
15 timely answer the complaint (Dkt. 17). For the reasons below, plaintiff's motion for default  
16 judgment (Dkt. 17) is DENIED as premature.

17 By order dated January 7, 2020, the Court directed service of plaintiff's complaint and  
18 allowed for waivers of service of summons to be filed within 30 days. Dkt. 10. The order further  
19 directed that "any defendant who timely returns the signed waiver shall have 60 days after the  
20 date designated on the notice of lawsuit to file and serve an answer to the complaint or a motion  
21 permitted under Rule 12[.]" *Id.* Defendants filed timely waivers of service on January 16, 2020,  
22 and February 5, 2020, and therefore had until March 7, 2020, to file an answer to the complaint.  
23 Dkts.12, 16. On February 13, 2020, several weeks before defendants' answer was due, plaintiff

1 filed the instant motion for a default judgment against defendants based on their failure to answer  
2 or otherwise respond to the complaint. Dkt. 17. On February 18, 2020, defendants filed a timely  
3 answer to plaintiff's complaint. Dkt. 18.

4 Plaintiff's motion was filed before the defendants' time to answer had expired. The Court  
5 accordingly DENIES the motion (Dkt. 17) as prematurely brought.

6 The Court notes defendants have filed an answer (Dkt. 18) and the Court will accordingly  
7 issue a pretrial scheduling order.

8 The Clerk shall provide a copy of this order to the parties.

9 DATED this 19<sup>th</sup> day of February, 2020.

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13 BRIAN A. TSUCHIDA  
14 United States Magistrate Judge  
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